

AMENDED IN SENATE JANUARY 26, 2010

AMENDED IN SENATE MAY 21, 2009

SENATE BILL

No. 409

Introduced by Senator Ducheny
(Coauthor: Assembly Member Torres)

February 26, 2009

~~An act to add Part 5.1 (commencing with Section 14460) to Division 3 of Title 2 of the Government Code, and to amend Section 185020 of, and to repeal Section 185024 of, the Public Utilities Code, relating to transportation. An act to amend Section 13975 of, and to add Chapter 2 (commencing with Section 13985) to Part 4.5 of Division 3 of Title 2 of, the Government Code, and to amend Section 185020 of, and to add Section 185025 to, the Public Utilities Code, relating to transportation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 409, as amended, Ducheny. ~~Department of Railroads. Passenger rail programs: strategic planning.~~

Existing law creates the Department of Transportation in the Business, Transportation and Housing Agency, with various powers and duties relative to the intercity passenger rail program, among other transportation programs. Existing law creates in state government the High-Speed Rail Authority, with various powers and duties relative to development and implementation of a high-speed passenger train system. The authority has 9 members, 5 appointed by the Governor and 4 appointed by the Legislature. Existing law also creates in state government the California Transportation Commission, with various powers and duties relative to programming of transportation capital projects and assisting the Secretary of Business, Transportation and Housing in formulating state transportation policies.

This bill would place the High-Speed Rail Authority within the Business, Transportation and Housing Agency. The bill would require the 5 members of the authority appointed by the Governor to be appointed with the advice and consent of the Senate. The bill would require the authority to annually submit a funding plan to the California Transportation Commission for approval, identifying the need for investments during the fiscal year and the amount of bond sales necessary to accommodate those investments.

This bill would require the Business, Transportation and Housing Agency to prepare a 5-year Strategic Rail Connectivity Plan for the state, the focus of which would be to identify, with a statewide emphasis, opportunities for passenger rail system improvements and linkages. The plan would be required to include desirable linkages and feeder opportunities between high-speed and conventional intercity rail, commuter rail, and rail transit, and to identify the coordination in planning and the capital investments necessary in that regard. The plan would also be required to identify future right-of-way needs of passenger rail lines in connection with state and local highway system improvements in order to accommodate future rail system improvements. The plan would be developed in consultation with transportation planning agencies and the agencies and entities responsible for the various rail and highway systems. The plan would initially be submitted to the California Transportation Commission for approval on September 1, 2011, and every 5 years thereafter. Upon approval of the plan, the commission, for each transportation project subject to commission approval and implicated by the plan, would be required to make a determination that the project is consistent with the plan. The bill would also provide that the commission, for good cause, may approve a project that is not consistent with the plan, subject to a waiver granted by the Secretary of Business, Transportation and Housing.

~~Existing law creates the Department of Transportation in the Business, Transportation and Housing Agency, with various powers and duties relative to the intercity rail passenger program, among other transportation programs. Existing law creates the High-Speed Rail Authority, with various powers and duties relative to development and implementation of a high-speed passenger train system. Existing law creates the Public Utilities Commission, with various powers and duties relative to railroads, among other responsibilities.~~

~~This bill would create the Department of Railroads in the Business, Transportation and Housing Agency, and create the positions of director~~

~~and deputy director within the department, to be appointed by the Governor, as specified. The director would be subject to Senate confirmation. The bill would transfer to the department responsibility for various state railroad programs currently administered by the above-referenced agencies. The bill would specify new duties of the department relative to an analysis of the state's freight rail transportation system. The bill would provide that the department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high-speed rail, or freight rail purposes. The bill would require the Secretary of Business, Transportation and Housing to convene a joint task force cochaired by the Director of Transportation, the Director of Railroads, and a representative of the Public Utilities Commission for the purpose of resolving issues relative to overlapping jurisdiction of the agencies.~~

~~Existing law provides for the Governor to appoint 5 members of the High-Speed Rail Authority. Existing law provides for the authority to elect a chairperson from among its members and to appoint an executive director.~~

~~This bill would revise these provisions by requiring one of these appointees to be the Director of Railroads, who would be subject to Senate confirmation. The Director of Railroads would serve as the chairperson of the authority. The bill would reconstitute the authority as a division of the Department of Railroads, with the chief of the division to be nominated by the Director of Railroads and approved by the authority, and would delete the provision for an executive director.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 13975 of the Government Code is
2 amended to read:
3 13975. The Business and Transportation Agency in state
4 government is hereby renamed the Business, Transportation and
5 Housing Agency. The agency consists of the State Department of
6 Alcoholic Beverage Control, the Department of the California
7 Highway Patrol, the Department of Corporations, the Department
8 of Housing and Community Development, the Department of
9 Motor Vehicles, the Department of Real Estate, the Department
10 of Transportation, *the High-Speed Rail Authority*, the Department

1 of Financial Institutions, the Department of Managed Health Care,
2 and the Board of Pilot Commissioners for the Bays of San
3 Francisco, San Pablo, and Suisun; and the California Housing
4 Finance Agency is also located within the Business, Transportation
5 and Housing Agency, as specified in Division 31 (commencing
6 with Section 50000) of the Health and Safety Code.

7 *SEC. 2. Chapter 2 (commencing with Section 13985) is added*
8 *to Part 4.5 of Division 3 of Title 2 of the Government Code, to*
9 *read:*

10
11 *CHAPTER 2. STRATEGIC RAIL CONNECTIVITY PLAN*
12

13 *13985. (a) The agency shall be responsible for preparation*
14 *of a five-year Strategic Rail Connectivity Plan for the state. The*
15 *focus of the strategic plan shall be to identify, with a statewide*
16 *emphasis, those opportunities for passenger rail system*
17 *improvements and linkages that otherwise are likely to be missed,*
18 *or assigned a relative lower priority, by implementing agencies*
19 *because of the natural focus of those agencies on the specific rail*
20 *systems under their respective jurisdictions. In that regard, the*
21 *strategic plan shall include desirable linkages and feeder*
22 *opportunities between various passenger rail services, including*
23 *high-speed and conventional intercity rail, commuter rail, and rail*
24 *transit, where the various services are the responsibility of different*
25 *implementing and operating agencies. The strategic plan shall*
26 *identify the coordination in planning and capital investments*
27 *necessary to maximize the opportunities for each of those services*
28 *in providing a cohesive, connected, and easy-to-use system for*
29 *Californians consisting of all of those services, rather than a*
30 *cumbersome set of unlinked individual rail services. The strategic*
31 *plan shall also identify future right-of-way needs of passenger rail*
32 *lines in connection with state and local highway system*
33 *improvements in order to accommodate future rail system*
34 *improvements as those highway improvements proceed to*
35 *implementation, with the objective of avoiding lost opportunities*
36 *by failure to reserve right-of-way capacity for future rail*
37 *improvements. The strategic plan may also include other matters*
38 *that offer similar opportunities for statewide coordination,*
39 *including the efficient movement of goods.*

1 ***(b) The strategic plan shall be developed in consultation with***
2 ***transportation planning agencies and agencies and entities***
3 ***responsible for the various rail and highway systems. The strategic***
4 ***plan shall be submitted to the California Transportation***
5 ***Commission for approval on September 1, 2011, and every five***
6 ***years thereafter on September 1. Amendments to an approved***
7 ***strategic plan may be developed and presented to the commission***
8 ***for approval in the same manner during each five-year period.***

9 ***(c) Upon approval of the strategic plan, the commission, for***
10 ***each transportation project subject to commission approval and***
11 ***implicated by the strategic plan, shall make a determination that***
12 ***the project is consistent with the strategic plan. The commission***
13 ***may approve a project that is not consistent with the strategic plan***
14 ***for good cause, subject to a waiver granted by the secretary.***

15 ***SEC. 3. Section 185020 of the Public Utilities Code is amended***
16 ***to read:***

17 ***185020. (a) There is in ~~state government~~ a the Business,***
18 ***Transportation and Housing Agency the High-Speed Rail***
19 ***Authority.***

20 ***(b) (1) The authority is composed of nine members as follows:***

21 ***(A) Five members appointed by the Governor with the advice***
22 ***and consent of the Senate.***

23 ***(B) Two members appointed by the Senate Committee on Rules.***

24 ***(C) Two members appointed by the Speaker of the Assembly.***

25 ***(2) For the purposes of making appointments to the authority,***
26 ***the Governor, the Senate Committee on Rules, and the Speaker of***
27 ***the Assembly shall take into consideration geographical diversity***
28 ***to ensure that all regions of the state are adequately represented.***

29 ***(c) Except as provided in subdivision (d), and until their***
30 ***successors are appointed, members of the authority shall hold***
31 ***office for terms of four years. A vacancy shall be filled by the***
32 ***appointing power making the original appointment, by appointing***
33 ***a member to serve the remainder of the term.***

34 ***(d) (1) On and after January 1, 2001, the terms of all persons***
35 ***who are then members of the authority shall expire, but those***
36 ***members may continue to serve until they are reappointed or until***
37 ***their successors are appointed. In order to provide for evenly***
38 ***staggered terms, persons appointed or reappointed to the authority***
39 ***after January 1, 2001, shall be appointed to initial terms to expire***
40 ***as follows:***

1 (A) Of the five persons appointed by the Governor, one shall
2 be appointed to a term which expires on December 31, 2002, one
3 shall be appointed to a term which expires on December 31, 2003,
4 one shall be appointed to a term which expires on December 31,
5 2004, and two shall be appointed to terms which expires on
6 December 31, 2005.

7 (B) Of the two persons appointed by the Senate Committee on
8 Rules, one shall be appointed to a term which expires on December
9 31, 2002, and one shall be appointed to a term which expires on
10 December 31, 2004.

11 (C) Of the two persons appointed by the Speaker of the
12 Assembly, one shall be appointed to a term which expires on
13 December 31, 2003, and one shall be appointed to a term which
14 expires on December 31, 2005.

15 (2) Following expiration of each of the initial terms provided
16 for in this subdivision, the term shall expire every four years
17 thereafter on December 31.

18 (e) Members of the authority are subject to the Political Reform
19 Act of 1974 (Title 9 (commencing with Section 81000)).

20 (f) From among its members, the authority shall elect a
21 chairperson, who shall preside at all meetings of the authority, and
22 a vice chairperson to preside in the absence of the chairperson.
23 The chairperson shall serve a term of one year.

24 (g) Five members of the authority constitute a quorum for taking
25 any action by the authority.

26 *SEC. 4. Section 185025 is added to the Public Utilities Code,*
27 *to read:*

28 *185025. The authority shall submit an annual funding plan to*
29 *the California Transportation Commission for approval. Among*
30 *other things, the funding plan shall identify the need for investments*
31 *during the fiscal year to which it applies, and the amount of bond*
32 *sales necessary to accommodate those investments.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, May 21, 2009. (JR11)**

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